

The opinion in support of the decision being
entered today is not binding-precedent of the Board.

Paper ~~117~~ 40

Filed by: Carol A. Spiegel
Administrative Patent Judge
Board of Patent Appeals and Interferences
U.S. Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
Tel: 703-308-9797
Fax: 703-305-0942

Filed: July 16, 2003

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

QUIG WANG, MITCHELL H. FINER
and XIAO-CHI JIA

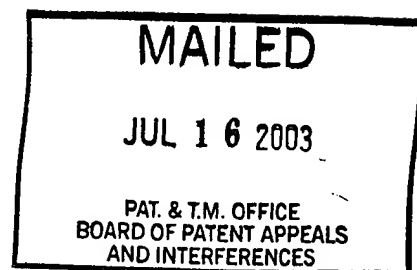
Junior Party,
Application 08/333,680

v.

JEAN-LUC IMLER, MAJID MEHTALI
and ANDREA PAVIRANI

Senior Party
Application 09/218,143

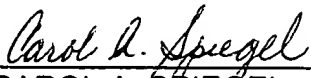
Patent Interference No. 104,821 (CAS)



ORDER ENTERING AMENDMENT
(37 CFR § 1.615(a))

In accordance with the MEMORANDUM OPINION and ORDER (Paper 116,
Decision on remaining preliminary motions, pp. 22-27 and 39), the Clerk of the Board
of Patent Appeals and Interferences is directed and

ORDERED to make a copy of Ex 1008 and enter the copied amendment to Imler application 09/218,143 adding Imler claims 66 and 67.



CAROL A. SPIEGEL
Administrative Patent Judge

July 10, 2003
Arlington, VA

cc (via overnight delivery):

Wang
(real party in interest
CELL GENESYS, INC.):

Steven B. Kelber, Esq.
PIPER MARBURY RUDNICK & WOLFE LLP
1200 Nineteenth Street, N.W.
Washington, DC 20036-2430
Tel: 202-861-3900
Fax: 202-223-2085
E-mail: steven.kelber@piperrudnick.com

Linda R. Judge, Esq.
CELL GENESYS, INC.
342 Lakeside Drive
Foster City, CA 94404
Tel: 650-425-4650
Fax: 650-349-7392
E-mail: linda.judge@cellgenesys.com

Imler
(real party in interest
TRANSGENE S.A.):

R.Danny Huntington, Esq.
Todd R. Walters, Esq.
Susan M. Dadio, Esq.
Norm H. Stepno, Esq.
Teresa Stanek Rea, Esq.
BURNS, DOANE, SWECKER & MATHIS, LLP
1737 King Street, Suite 500
Alexandria, VA 22313-2756
Tel: 703-836-6620
Fax: 703-836-2021
E-mail: dannyh@burnsdoane.com
toddw@burnsdoane.com
susand@burnsdoane.com
norms@burnsdoane.com
teresar@burnsdoane.com

EXHIBIT 1008

Patent
Attorney's Docket No. 032751-016

#40

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of)	
)	
Jean-Luc IMLER et al.)	Group Art Unit: 1632
)	
Application No.: 09/218,143)	Examiner: S. Priebe
)	
Filed: December 22, 1998)	
)	
For: DEFECTIVE ADENOVIRUSES)	
AND CORRESPONDING)	
COMPLEMENTATION LINES)	

PROPOSED AMENDMENT 1

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Please amend the application as follows:

IN THE CLAIMS:

Please add new claims 66 and 67 as follows:

66. An adenovirus which is defective for replication, and which is derived from a natural adenovirus in that it lacks at least part of the E1A, E1B, or both regions, and at least a part of the E4 region, so that it is defective for the E1 and E4 functions and can be prepared

**Imler EXHIBIT 1008
Wang v. Imler
Interference No. 104,821**

by passage in a cell line providing the E1 and E4 functions *in trans*, and which comprises an exogenous nucleotide sequence.

67. A recombinant adenovirus comprising an adenovirus genome having a foreign gene and a promoter for expressing said foreign gene, wherein the function of an adenoviral E1 gene and an adenoviral E4 gene are completely deleted by removing a part or all of said E1 gene and said E4 gene.

REMARKS

Entry of the foregoing, reexamination and further and favorable consideration of the subject application in light of the following remarks, are respectfully requested.

By the present amendment, claims 66 and 67 are added. Support for the added claims can be found throughout the originally filed application and in the priority application. For example, the added claims are specifically supported at least at page 6, lines 11-24, page 7, lines 3-11, page 10, lines 24-32, page 11, lines 26-35, page 12, lines 18-27, and by claims 1, 7, 8, 26 and 30 of the application as filed.

No prohibited new matter has been added by the present amendment.

CONCLUSION

From the foregoing, further and favorable action in the form of a Notice of Allowance is respectfully requested and such action is earnestly solicited.

In the event that there are any questions relating to this response, or the application in general, it would be appreciated if the Examiner would telephone the undersigned concerning such questions so that prosecution of this application may be expedited.

Respectfully submitted,

BURNS, DOANE, SWECKER & MATHIS, L.L.P.

By: _____
Susan M. Dadio
Registration No. 40,373

P.O. Box 1404
Alexandria, Virginia 22313-1404
(703) 836-6620

Date: